

To: All Agency Secretaries
All Department Directors
Board and Commission Executive Officers

From: Glen Rosselli
Undersecretary
Health and Human Services Agency

Date: October 31, 2001

Re: Legislatively-Mandated Assessment Project on the Health
Insurance Portability and Accountability Act

Following years of work, Congress passed and President Clinton signed the Health Insurance Portability and Accountability Act (HIPAA), also known as the Kassebaum-Kennedy bill, on August 21, 1996. HIPAA marked a significant step forward in the portability and continuity of health insurance. Although lesser known at the time of signing, the bill required several other important actions such as those to combat waste, fraud and abuse in health care delivery, as well as, to improve access for health services and coverage.

Recognizing that the health care industry was moving into the computer age, HIPAA also requires the administrative simplification of interactions between payers and providers. For example, one requirement is that providers who bill electronically must use a nationally uniform set of billing codes. Not only will HIPAA improve the efficiency and effectiveness of the entire health care system, the law also establishes important requirements for the handling of certain health care information to ensure privacy of patient health care data. While the costs of implementing HIPAA will be substantial, the Federal government estimates that HIPAA will result in overall savings to the national health care system.

Earlier this month, Governor Davis continued his work to ensure that California is prepared for HIPAA by signing SB 456 --the Health Insurance Portability and Accountability Implementation Act of 2001, Chapter 635 Statutes of 2001. This law creates a statutory framework for the Office of HIPAA Implementation (OHI) within the California Health and Human

Services Agency. I am pleased to announce that Burt Cohen, who most recently served as an Assistant Secretary at the California Health and Human Services Agency, has agreed to serve as Acting Director for this office.

With the Governor's support, OHI has been created to assume leadership for the State's HIPAA activities, including policy formulation, direction, oversight, and coordination. By law, OHI must monitor departmental progress on HIPAA and report to the Legislature on implementation efforts. Furthermore, under Section 130309 of the Health and Safety Code, all State entities subject to HIPAA must complete a project assessment (in a form specified by OHI) by January 1, 2002.

I respectfully ask for your assistance to complete this assessment and that you work with OHI to determine whether or not your department is subject to HIPAA. To comply with the law, the attached legislatively-mandated assessment should be returned to OHI no later than December 31, 2001.

In order to help your Department with the assessment tool, I have also attached instructions on the assessment, an overview of HIPAA, and some other useful information. The goal of the assessment is to determine which State entities, including State departments, boards, commissions, and other organizational units of State government, are impacted by HIPAA, and the extent of the impact. Also, please provide a status of your efforts to comply with HIPAA requirements and your ability to meet federal deadlines. This includes fiscal information available on your HIPAA compliance activities --for example, how much money has been, and is estimated to be, spent on your Department's effort.

In requesting this information, we realize that HIPAA could have a significant impact on certain Departments and that you may not have complete information at this time. With this assessment, OHI is only asking for your most current information, your best estimates, and your current direction. OHI has tried to make the assessment tool as user-friendly as possible. You will note that it frequently contains definitions and explanations of the significance of the information requested.

Despite these efforts, you may wish to have some additional assistance in completing the document. We have already taken several steps to assist you.

- A little over a year ago, Secretary Johnson convened a statewide HIPAA workgroup. Your department may have representatives participating in the workgroup who are already familiar with HIPAA. The list of participants will be available at <http://www.dmh.cahwnet.gov/> by November 5, 2001.

- I have asked OHI to offer two training sessions on the assessment tool. These sessions, entitled "HIPAA – What am I?," are scheduled for November 6, 2001 and November 26, 2001. Please contact Elaine Scordakis at (916) 651-8065 to register for a training session.
- Enclosed, please find an invitation to OHI's "kickoff" meeting to further discuss its role, answer questions about the attached assessment, and plan how we can work together to meet HIPAA requirements.
- Of course, OHI staff members are available to answer any questions you may have.

After completing the attached assessment, it should be signed by a Deputy Director, or above, of your Department and returned to OHI at the Health and Human Services Agency, 1600 9th Street, Room 460, Sacramento, California 95814 no later than December 31, 2001. If you have any questions please contact Burt Cohen or Therese Hart, Chief of the Policy Management Branch, at 654-3301.

Again, thank you for your efforts to fulfill the Governor's goal of having the state be HIPAA compliant on time. I appreciate your support as we move forward together on this critical project, and I look forward to working with you in the weeks and months ahead.

Cc: Susan Kennedy, Secretary for Cabinet Affairs
Governor's Office

Tim Gage, Director of Finance

Grantland Johnson, Secretary
Health and Human Services Agency

Attachments

- Mandatory Assessment Instrument
- Overview of HIPAA
- Explanation of Project Stages
- Invitation to HIPAA Kickoff Meeting

**Health Insurance Portability and Accountability Act (HIPAA)
Office of HIPAA Implementation**

HIPAA ASSESSMENT

Introduction	<p>This section explains why we have sent you this document, including the statutory requirement for this assessment, and how to use the document.</p> <hr/>
Purpose	<p>The objective of this assessment is to determine what programs in departments are covered by HIPAA regulations, and how HIPAA compliance impacts their operations. The document provides state departments with the information necessary to determine if HIPAA impacts your department's programs, business operations and systems, and requests feedback on that impact, and your department's current status of HIPAA compliance.</p> <hr/>
Background	<p>Federal Requirements</p> <p>The Health Insurance Portability and Accountability Act (HIPAA), also known as the Kassebaum-Kennedy bill, became public law (P.L. 104-191) on August 21, 1996. HIPAA was introduced as a bill to improve the portability and continuity of health insurance coverage in group and individual markets; to combat waste, fraud and abuse in health insurance and health care delivery; to improve access to services and coverage; and to simplify the administration of health insurance.</p> <p>HIPAA includes Administrative Simplification (AS) requirements intended to improve the efficiency and effectiveness of the entire health care system through the national standardization of electronic transactions and code sets. The HIPAA Privacy Rule establishes requirements for the handling of certain health care information to ensure privacy of patient health care data. Future AS rules will address unique health identifiers, security provisions, and enforcement.</p> <p>The requirements apply specifically to entities considered to be a Health Plan, Healthcare Clearinghouse, Healthcare Provider, Business Associate or Trading Partner as defined by HIPAA. HIPAA will also impact departments that use, transmit, collect or report any of the information which HIPAA covers under the Act.</p>



Office of HIPAA Implementation

In responding to federal law, Governor Davis created the Office of HIPAA Implementation (OHI) within the Health and Human Services Agency in April 2001. This Office is responsible for providing statewide leadership, policy formulation, direction, coordination, and oversight in order to ensure the successful implementation of HIPAA regulations. At the same time the Governor directed state departments to coordinate with OHI in achieving compliance with HIPAA. Subsequently, the Governor proposed \$94 million to support departmental HIPAA compliance efforts. These funds were later appropriated by the Legislature.

Chapter 635, Statutes of 2001, creates the Office of HIPAA Implementation in statute and enacts Section 130309 of the Health and Safety Code. Section 130309 requires all state entities subject to HIPAA to complete an assessment in a form specified by OHI by January 1, 2002, to determine the impact of HIPAA on their operations. Other state entities are also required to cooperate to determine whether they are subject to HIPAA, including providing a completed assessment. OHI is required to report the findings of this assessment to the Legislature.

Instructions

How to Use this Document

This assessment will help you determine whether you are covered by HIPAA requirements, and will provide OHI, the Administration, and the Legislature with an overview of which departments are affected by HIPAA, the extent of that impact, and the status of their compliance activities.

The definitions and examples provided here are accurate to the best of OHI's knowledge. This material should be viewed in the context of your own organization and environment. OHI encourages departments to obtain legal opinions or decision documentation if needed to apply or interpret HIPAA regulations.

Please fill out the assessment to the best of your ability, providing current estimates where final information may not be available. Departments should recognize that because you are comprised of various programs performing a variety of functions, your department could fit into multiple categories within the assessment.

The assessment should be signed by a Deputy Director, or above, of your Department and be returned to OHI by December 31, 2001 at:

Health and Human Services Agency
Office of HIPAA Implementation
1600 Ninth Street, Room 460
Sacramento, CA 95814

PART I

WHICH ORGANIZATIONAL CATEGORY BEST DESCRIBES YOUR DEPARTMENT?

Department, Board, or Commission Name: _____

Introduction

This section helps you determine if you are a Covered Entity, and therefore, subject to HIPAA, or a Business Associate or Trading Partner of a Covered Entity, a Hybrid Entity, or indirectly impacted by data content changes. If you are not impacted by HIPAA because you do not access or maintain individually identifiable health information, you can stop at the end of the Health Information section without completing the rest of the assessment.

Part I is intended to facilitate your department's determination of which organizational category best describes you. It will request that you evaluate your business processes, data collection and automated systems to make this determination.

Determine

Health Information

First, let's determine if your department has access to, or maintains *individually identifiable health information (IIHI)* as defined by HIPAA Regulations. The *IIHI* may reside in any medium (e.g., tape, paper, diskette, fax, e-mail, electronic, digital, voice message). Below are examples of documents that may contain health information.

Definition

Individually identifiable health information is "any information, whether oral or recorded, in any form or medium that:

- 1) Is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university or healthcare clearinghouse in the normal course of business, and;
- 2) Relates to the past, present or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present or future payment for the provision of health care to an individual."

Human resources (HR) within your department may handle health information (e.g., new employee health information), however, as a general rule the employee-employer relationship by itself is not covered under HIPAA. Therefore, at this point in time, it is our

belief that HR is not covered by HIPAA. Our primary interest is for you to identify impact to your department's programs and services.

The following are some examples of health information:

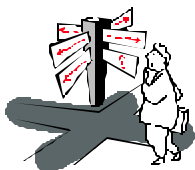
Administrative	Education	Financial
- Certificates (Birth, Death, Other)	- Behavior Rating Scales	- Claims Information - Insurance Billing and Payment Information

Clinical	
- Cancer Registry	- Medication Administration
- Complete Medical or Dental Files	- Nursing Notes and Logs
- Discharge Summary	- Radiology Reports
- Diagnosis Records	- Pathology Reports
- Doctor's Statements	- Physician Orders
- Health Plan Records	- Psychological Records & Testing Reports
- Immunization Records	- Treatment Plan
- Laboratory Data	- X-Ray Films

Following are some places the health information may be used in your organization:


- | | |
|---------------------------------------|----------------------|
| - Claims processing or administration | - Legal |
| - Data analysis | - Actuarial |
| - Utilization review | - Accounting |
| - Quality Assurance | - Consulting |
| - Billing | - Data aggregation |
| - Benefit management | - Management |
| - Proactive management and repricing | - Administration |
| | - Accreditation |
| | - Financial Services |

Decision



Does your department create, receive, send, maintain or have access to individually identifiable health information as described in the definition and examples above?

☐ Yes *Please continue with the assessment.*

☐ No  You do not need to proceed further with the assessment. Please sign and return it according to the instructions on pages 2 and 3.

Determine

Healthcare Provider

Second, let's determine if your department meets the HIPAA definition of a Healthcare Provider.

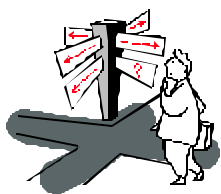
Definition

A *Healthcare provider* is "a provider of medical services including: *Institutional providers* (such as hospitals, skilled nursing facilities, home health agencies, comprehensive outpatient rehabilitation facilities); *facilities and practitioners* (including clinics and centers, physicians, clinical laboratories, pharmacies, nursing homes, licensed/certified healthcare practitioners and suppliers of durable medical equipment); and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business," related to the health of an individual.

Examples

Furnishes Healthcare Services	Bills for Healthcare Services	Is Paid for Healthcare Services
<ul style="list-style-type: none">- Preventive- Diagnostic- Therapeutic- Rehabilitative- Maintenance- Palliative- Counseling- Physical/Mental Condition- Functional Status	<ul style="list-style-type: none">- Specific Healthcare- Sale/Dispense – Drug- Sale/Dispense – Device- Sale/Dispense – Equipment- Other Prescription Item	<ul style="list-style-type: none">- Procure Blood- Procure Organs- Procure Other Tissue- Contractual Services- Clinical Software- Ancillary Services

Decision



Does your department meet the definition of a Healthcare Provider by furnishing healthcare services, billing for healthcare services or receiving payment for healthcare services?

___ Yes

___ No

Please continue with the assessment.

Determine

Health Plan

Third, let's determine if your department meets the definition of a Health Plan.

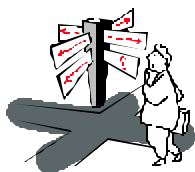
Definition

Health plan means an individual or group plan that provides, or pays the cost of medical care.

Examples

<i>Includes the following</i>	<i>Excludes the following</i>
<ul style="list-style-type: none">- An individual or group plan that provides or pays for the cost of medical care, has 50 or more participants, and is administered by an entity other than the employer- Insured and self-insured plans- An HMO (health insurance issuer)- Part A or Part B Medicare- Medicaid (Medi-Cal) Program- Medicare + Choice Program- Issuer of Medicare Supplemental policy- Issuer of long term care policy, excluding a nursing home fixed indemnity policy- Any arrangement that provides health benefits to the employee or 2 or more employers- Active military, Veterans Health Care Program, Civilian Health and Medical Program, Indian health service program, Federal Employees Health Benefit Plan- An approved State child health plan- A high risk pool that is a mechanism established under State law to provide health insurance coverage or comparable coverage to eligible individuals	<ul style="list-style-type: none">- Workers' compensation- Automobile insurance carriers- Government-funded program whose principle purpose is other than providing or paying the cost of health care (but do incidentally provide such services) e.g., WIC- Government funded program e.g., government funded health centers and immunization programs- Agencies that determine eligibility for enrollment in a health plan that is a government program providing public benefits, e.g., local welfare office.- County Welfare Office

Decision



Is your department considered an Individual or Group Health Plan that provides or pays for medical care according to the HIPAA definition?

☐ Yes

☐ No

Please continue with the assessment.

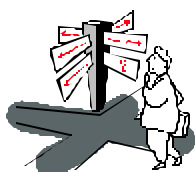
Determine

Fourth, let's determine if your department sends or receives any administrative or financial transactions, containing individually identifiable health information **electronically** using any method (the Internet, Intranet, private network system, magnetic tape or disk).

Examples:

Administrative Transactions	Financial Transactions
<ul style="list-style-type: none">- Enrollment/Dis-enrollment: Establishing or terminating Health care coverage- Authorization for Services or Referral to another provider- Eligibility for a Health Plan- Inquiries regarding Beneficiary eligibility or benefits- First Report of Injury	<ul style="list-style-type: none">- Coordination of Benefits- Health Claims- Health Claim Status- Healthcare Payment- Remittance Advice- Healthcare Premium Payment- Health Attachments – Documents containing detailed medical information regarding a claim or authorization

Decision



Does your department send or receive administrative or financial transactions involving individually identifiable health information electronically?

☐ Yes

☐ No

Please continue with the assessment.

If your department is considered a Healthcare Provider or Health Plan.

And your department sends or receives administrative or financial transactions electronically containing individually identifiable health information

Then your department is a Covered Entity under HIPAA Regulations.

Is your department a Covered Entity on the basis of the above?

☐ Yes

☐ No

Please continue with the assessment.

Determine

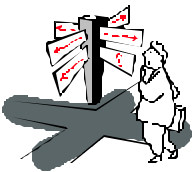
Healthcare Clearinghouse

Fifth, let's determine if your department meets the definition of a Healthcare Clearinghouse.

Definition

A Healthcare Clearinghouse is a "private or public entity that processes or facilitates the processing of health information received from another entity," either to or from the standard format that is required for electronic transactions.

Decision



Does your department receive or send individually identifiable health information from or to a Covered Entity, and process that information either to or from the standard format that will be required for administrative or financial electronic transactions?

☐ Yes

☐ No

Please continue with the assessment.

If your department processes health information received from a Covered Entity

And sends the information to another Covered Entity,

Then your department is a Covered Entity under HIPAA Regulations.

Are you a Covered Entity on the basis of the above?

___ Yes

___ No

Please continue with the assessment.

Determine

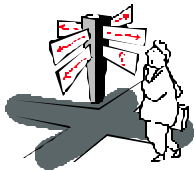
Hybrid Entity

Sixth, determine if your department meets the HIPAA definition of a Hybrid Entity.

Definition

A *Hybrid Entity* has programs or functions considered to be those of a Covered Entity, however the functions covered by HIPAA are not the department's primary function or "dominant mission".

Decision



If the primary function of your department is **not** related to health care

And your department has programs or performs functions that are considered to be those of a Covered Entity,

Then your department is considered a Hybrid Entity.

Are you a Hybrid Entity on the basis of the above?

___ Yes

___ No

Please continue with the assessment.

Determine

Business Associate

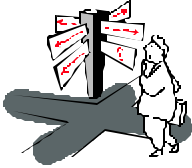
Seventh, determine if your department meets the HIPAA definition of a Business Associate.

Definition

A *Business Associate* is a person or entity that performs a function or assists a Covered Entity with a function or activity

involving the use or disclosure of individually identifiable health information. (see page 3 for a definition of individually identifiable health information).

Decision



Does your department perform a service or function on behalf of an entity that may be deemed to be a Covered Entity as defined by the HIPAA Regulations?

☐ Yes

☐ No

Please continue with the assessment.

If your department performs a service/function on behalf of a Covered Entity and is given or discloses individually identifiable health information

Then your department is a Business Associate under HIPAA Regulations.

Are you a Business Associate?

☐ Yes

☐ No

Please continue with the assessment.

Determine

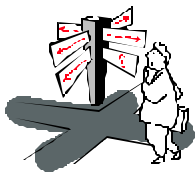
Trading Partner

Determine if your Department meets the HIPAA definition of a Trading Partner.

Definition

A *Trading Partner* is a person or organization that exchanges individually identifiable health information via electronic transmission with a Covered Entity.

Decision



Does your department electronically exchange individually identifiable health information, as defined on page 4, with a Covered Entity?

___ Yes

___ No

If your department electronically exchanges individually identifiable health information with a Covered Entity via electronic transmissions

Then your department is considered a Trading Partner under HIPAA Regulations.

Are you a Trading Partner?

___ Yes

___ No

Please continue with the assessment.

Determine

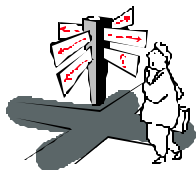
Data Content Impact

Now, let's determine if your department uses any codes or transactions that will be changed by HIPAA Regulations.

Definition

Data content includes any set of codes (e.g. CPT 4) used to encode data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes. A code set includes the codes and the descriptors of the codes. Departments, counties, insurance carriers, and providers use health insurance code sets to bill, collect data and report with.

Decision



- 1) Does your department use health care services or procedure codes (e.g., Appendectomy, Chest X-Ray, Urinalysis, counseling, triage, or assessment and evaluation) for any of its business functions?
- 2) Does your department use diagnosis codes (e.g., Appendicitis, Congestive Heart Failure, Urinary Tract Infection, Office Visit, Counseling or Treatment Session) for any of its business functions?

- 3) Does your department use drug/pharmacy codes (e.g., Penicillin, Claritin) for any of its business functions?
- 4) Does your department use dental codes (e.g., Tooth Extraction) for any of its business functions?

If your department uses, transmits, collects data or reports using any of the types of data noted above

Then your department may be impacted by data content changes from a Covered Entity, Business Associate or Trading Partner.

Will your department be impacted by Data Content changes?

___ Yes

___ No

Please continue with the assessment.

Summary



Based on these questions and answers, I have determined that my department is:

Please check all that apply.

- ___ a Covered Entity
 - ___ a Healthcare Provider
 - ___ a Health Plan
 - ___ a Healthcare Clearinghouse
 - ___ a Hybrid Entity
 - ___ a Business Associate
 - ___ a Trading Partner
 - ___ impacted by Data Content changes
 - ___ not covered by HIPAA
-

This concludes Part I of the Assessment.

If you are a Covered Entity, Business Associate, Trading Partner, Hybrid Entity, or impacted by Data Content changes, please continue with Part II, and tell us more about how HIPAA impacts your department and how you are preparing for that impact. If you are not covered by HIPAA, please indicate that above. You do not need to complete Part II. Please sign and return the form according to the instructions on pages 2 and 3.

PART II

WHAT KIND OF IMPACT WILL HIPAA HAVE IN YOUR DEPARTMENT?

Introduction

Now that you have reviewed your business processes and made determinations regarding the need for your department to be HIPAA compliant, we are interested in specific information regarding HIPAA's impact to you, and the status of your department's efforts. We have provided limited space, if additional space is needed please feel free to add an attachment.

Impact

- 1) The final Federal HIPAA rules that affect me are:
☐ Transactions and Code Sets
☐ Privacy
- 2) The programs within the department that are affected by HIPAA are:

- 3) Please identify key organizations with whom you exchange health information (e.g., insurance companies, providers, Medi-Cal, counties):

Status

We are interested in the *status* of your efforts to address the HIPAA regulations.

- 4) What is the current status of your department's HIPAA efforts? The "Steps to HIPAA Compliance" document (Appendix B) will help you answer the HIPAA compliance steps questions below.
 - 4a) ☐ Not started yet
☐ Attending Statewide workgroup/Sub-workgroup meetings

4b) **HIPAA Compliance Steps**

Completed this Step?

- ☐ Yes ☐ No Project Initiation (Awareness)
☐ Yes ☐ No Initial Assessment (Inventory)
☐ Yes ☐ No Project Plan
☐ Yes ☐ No Detailed Assessment (Gap analysis)
☐ Yes ☐ No Implementation

- 5) Please identify your Department's HIPAA coordinator or primary contact?

Name: _____

Title: _____

Phone: _____ E-mail: _____

- 6) Is any portion of your HIPAA work contracted out?

- ☐ Yes. If yes, what portion? _____
What contractor? _____
☐ No

- 7) Have you established a Project Management Office?

- ☐ Yes
☐ No

- 8) Is there anything that you would highlight in your project management strategy (e.g. Department-wide interdisciplinary teams)?

- ☐ No
☐ Yes, our department _____

- 9) Have you met with your Business Partners regarding HIPAA?

- ☐ Yes
☐ No

- 10) Is someone in your department assessing HIPAA's impact to state laws and/or regulations and determining where changes are required?

- ☐ Yes
☐ No

- 11) Given your Department's current resources and plans, how easy will it be for your Department to be compliant with the Federal deadlines?

Rule:	Federal Deadline	Easy	_____	Very Difficult
Transactions & Code Sets	10/16/02	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Privacy	4/14/03	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please identify areas where you are concerned that non-compliance may occur: _____

- 12) Are you involved in any national standards organizations or workgroups? Please identify: _____

Scope

We are interested in the scope/size of HIPAA impact to your department.

- 13) Describe the HIPAA impact to your department relative to:

a) Essential Services: _____

b) Programs (identify programs (e.g., Medi-Cal) within your department that are affected by HIPAA): _____

c) Business Partners/Stakeholders: _____

d) Information Technology (IT) systems (identify the IT systems that will require remediation):

e) Customer interfaces:

14) What are your department's major/specific HIPAA issues and challenges (e.g., Medi-Cal's elimination of thousands of local codes)? Please quantify.

Fiscal



15) Have you estimated the cost for HIPAA assessment and remediation (in total or by rule)?

If so, how much:

Transactions and Code Sets \$ _____

Privacy \$ _____

Total \$ _____

16) Over what period of time (each fiscal year)?

01 / 02 \$ _____ 04 / 05 \$ _____

02 / 03 \$ _____ 05 / 06 \$ _____

03 / 04 \$ _____

17) Have you estimated the cost for your Project Management/contractor team? If so, how much?
\$ _____

18) Over what period of time (each fiscal year)?

01 / 02 \$ _____ 04 / 05 \$ _____

02 / 03 \$ _____ 05 / 06 \$ _____

03 / 04 \$ _____

- 19) Is there any money in your department's base that you can use? If so, how much? \$ _____
- 20) Have you *requested* funding for the current year? If so, how much \$ _____
- 21) Have you *received* funding for the current year? If so, how much? \$ _____

What is the status of your funding request? _____

- 22) Have you requested funding for the budget year? If so, how much? \$ _____

What is the status of your funding request?

- 23) Do you anticipate requesting funding for the budget year at a later date? If so, please provide an estimate
\$ _____

- 24) Please identify funding sources (e.g., special fund, federal fund) _____

- 25) Of total funding, estimate what proportion is General Fund, and what proportion is other funds, please specify (e.g. 10% General Fund, 90% federal funding)
\$ _____

- 26) Has your Department temporarily reduced or suspended any services or programs due to the redirection of funds and/or personnel for HIPAA compliance activities:
☐ Yes
☐ No

If yes, please explain:

Department Deputy Director Signature

Date

Department, Board, or Commission Name: _____

Please return this Assessment by December 31, 2001 to:

Health and Human Services Agency
Office of HIPAA Implementation
1600 Ninth Street, Room 460
Sacramento, CA 95814

APPENDIX - A

HIPAA OVERVIEW

WHAT IS IT?

The Health Insurance Portability and Accountability Act (HIPAA) will change certain aspects of the way health care is administered over the next few years. President Clinton signed the Kassebaum-Kennedy Health Insurance Portability and Accountability Act on August 21, 1996. HIPAA is designed to expand health coverage by improving the portability and continuity of health insurance coverage in group and individual markets; to combat waste in health care delivery; to promote the use of medical savings accounts; to improve access to long-term care services and coverage; and to simplify the administration of health insurance. Within this context HIPAA includes a provision called Administrative Simplification, which is intended to improve the efficiency and effectiveness of the health care system by encouraging the development of standards for the electronic transmission of certain health information. HIPAA also establishes privacy and security standards related to health information.

National Standards

Through the adoption of national standards, the health care industry can realize cost-savings by reducing administrative duplication. These standards are developed by processes delineated in the HIPAA legislation and are established by the publication of a "rule" in the Federal Register. There are a total of nine rules regarding HIPAA; two are final, six are in draft and the enforcement rule is under development.

Once each rule is published in the Federal Register, following a 60-day Congressional concurrence period, organizations have 24 months to become compliant. Public agencies are not exempt from HIPAA and must comply with the law, which impacts Covered Entities, described by HIPAA as Providers, Clearinghouses and Health Plans. Programs within State Agencies that fund health care services, under HIPAA, are usually considered health plans.

The "Transaction and Code Sets" rule, published in August 2000, was the first rule published. Health care organizations have until October 16, 2002 to comply with its requirements. The Transaction and Code Sets rule will apply to those Covered Entities that perform the following business functions:

- send or receive health care claims
- pay health care services
- send or receive eligibility inquiries
- conduct provider referrals and service authorizations
- perform health plan enrollment
- perform coordination of benefits activities

The second final rule is the Privacy Rule published in December 2000. Health care organizations have until April 14, 2003 to comply with its provisions. The Privacy Rule applies requirements for viewing, handling and storing individually identifiable health information that is written, electronic, faxed, when present on a monitor screen, or verbal. It will require a review and possible revision of many information policies, procedures and practices.

WHO MIGHT BE IMPACTED

All public health and behavioral health programs will be impacted. Departments and program areas may be impacted to varying degrees, dependant upon the types of services they provide, their current administrative processes or if they handle certain health care information.

Any program area would almost certainly be impacted if it:

- *receives, submits or pays health care claims,*
- *is involved in plan enrollment or benefits, or*
- *receives, distributes or retains patient health care data.*

Any program may be impacted if it:

- *receives or submits medical information from / to a business partner,*
- *utilizes information collected from a provider working in a HIPAA compliant environment,*
- *uses detailed or summary medical information from other entities, or*
- *generates reports from medically related information.*

Health care and medical information will have new code set standards and formats. There are also new rules for the receiving, distributing and retaining of this information. Any departmental program involved in service delivery, collection, storage or distribution processes may be impacted. These programs need to review their business processes and automated systems for potential impact and identify actions to ensure compliance with the HIPAA Rules, as well as ensure essential services are not impacted. An important component is the communication and coordination with your business partners.

HIPAA will eliminate the use of "local codes", codes that are not within the standard code sets. These code sets include medical procedure, health care service, mental health services, and administrative reporting codes. Many such codes are utilized to support key programs within county and provider processes. Program areas will need to identify new ways to track and report services currently supported by non-standard codes. If alternative reporting solutions are not developed, an entity's ability to administratively support some of its programs may be negatively impacted. All county and state programs that use local codes need to consider options for compliance. This will require coordination with business partners.

The Privacy Rule protects health information that is individually identifiable. While all entities should have security and privacy policies in place, the HIPAA standards may be more stringent and may require documentation that is not currently in place today. Each program needs to review its policies to ensure compliance, and will need to provide education and training to every person (employee, contractor, and temporary help) that potentially has access to health care data. The federal deadline for compliance with the Privacy Rule is April 14, 2003.

Other examples of potential impacts to consider include:

- Your business partners may use HIPAA compliant data collection processes that have limited coding sets, new field attributes and new definitions from current practices. These data collection processes may not provide enough specificity to meet current program objectives. For example, race/ethnicity codes in the HIPAA required standard format do not use the range currently used by many of California's programs.
- There may be additional costs to collect and report non-HIPAA compliant data.
- The Provider Taxonomy proposed may not uniquely break out the various types of providers currently defined. Provider reports may be impacted.
- In future rules, Provider numbers will be established at a national level and may not resemble the currently used numbers. Having access to currently valid numbers will be important in service delivery, edits and audits.
- Access and storage of data and records need policies and procedures in place to ensure clients have access to their health information, the ability to exercise their right to note modifications to these records, and can obtain a history of releases of their health information.
- Data transmission with business partners may require additional processes. Contract language should require that business partners apply HIPAA compliant processes. Encryption and authentication processes may be needed when data is moved between business partners.
- Periodic audits of security, privacy and business practices may be needed to document that reasonable processes and procedures have been initiated to meet federal standards and minimize liabilities.
- Similar entities may wish to adopt similar policies and procedures to ensure consistent applications of the federal standards.
- Changes to policies, regulations, and legislation may be needed to ensure HIPAA compliance, and support revised data collection, reporting and information sharing processes and procedures.
- Programs that operate a health plan for employees or constituents have potential impacts.
- Programs that use provider numbers, diagnosis codes, drug codes, local codes, health plan codes, or pass data to business partners may be impacted. Information access will most probably be more restrictive than our present practices. This may also require new computerized access controls.

HIPAA COORDINATION WORKGROUP

The interdependence between state departments, counties, providers and program areas that perform health related service delivery or use health information makes it vital that we approach HIPAA with a unified voice and common methodology. There are many critical issues that are still outstanding and each department's view, as well as the opinion of their business associates, should be consistently expressed at both a local and a national level. In addition, with over 90,000 providers throughout California, it is imperative that we perform outreach, education and training in a manner that is efficient and well coordinated. Further, requests for resources must be coordinated and overall progress on implementation should be monitored and coordinated so issues can be addressed quickly.

With this in mind, a California Health and Human Services (CHHS) Agency Workgroup has been established to coordinate HIPAA compliance activities on a Statewide basis. The group has COLLABORATIVELY focused on awareness, issue identification and analysis, and tracking implementation efforts. Because of the need to coordinate and review HIPAA implementation, this workgroup is designated as the primary vehicle to move forward with HIPAA compliance for the CHHS Agency. It is suggested that representatives from each entity participate in the meetings and the various subject area sub-workgroups (e.g., Security/Privacy Sub-workgroup). It is critical that state and county issues are recognized, communication and coordination achieved, and a California voice be heard in national forums. For information on the Agency's Statewide Workgroup, please contact Ken McKinstry, at Kmckinst@dmhhq.state.ca.us.

Action is needed now

Action is needed now to ensure compliance with HIPAA rules within the federal timelines. HIPAA legislation includes specific timeframes for implementation and penalties for non-compliance. State entities and Counties may need to form workgroups to raise awareness, assess impacts, identify enterprisewide solutions, implement changes, address issues and coordinate with business partners as their programs, processes and procedures change.

APPENDIX - B

STEPS TO HIPAA COMPLIANCE

To support the tracking and reporting of state entity progress towards HIPAA compliance, the following standard definitions of project stages will be used by OHI:

- 1) **Project Initiation** (also called Awareness) needs to be established with executive level sanctioning of the efforts. Awareness can be established in a variety of ways: bringing in industry specialists, attending conferences, reviewing the federal rules and reading credible literature. This step will also help identify the main issues the program may have to address and to create an initial Project Plan and tasks to establish compliance. In this step it is important to establish a Project Leader and Workgroup. In this first step, organizations need to begin participating in the Statewide HIPAA Workgroup and Sub-Workgroups to help coordinate and communicate issues and resolutions.
- 2) Conduct an **Initial Assessment** (also called an Inventory) to establish which programs and functions are impacted. This may require training staff and interactions with your business partners. This step will also identify **External Interfaces** that you will need to interact with as you implement any changes.
- 3) A **Project Plan** is established from the tasks initially identified for achieving compliance. The Plan will identify the main tasks and milestones for achieving compliance, designate staff for each task and establish dates for task completion. The Plan becomes a tool for monitoring progress and addressing issues as your project proceeds. The Plan also helps establish a detailed resource and cost estimate for the project. A more detailed Project Plan and resource / cost estimate can be established after the Gap Analysis is completed. Project Plans need to evolve as the project and resources change.
- 4) A **Detailed Assessment** (also called a Gap Analysis or Impact Assessment) should be performed on the programs and functions that require change. The Gap Analysis looks at the gaps between the current process and procedures compared to the Federal HIPAA rules. It will also investigate the options and desired tasks needed for achieving compliance to the rules.
- 5) **Implementation** (also called Remediation) is the final step. It involves making the changes to processes and procedures, revising user instructions, training staff, testing all changes, testing with your business partners, having a coordinated implementation process, and monitoring the new processes.

Variations of these steps may be needed for different organizations depending on the extent of changes and number of business partners involved. Critical throughout the process is top management involvement, monitoring progress toward goals, and communication and coordination with your business partners. With HIPAA being a series of Federal Rules, being released and revised at periodic points, several of the above steps may need to be repeated as the rules change.